

Serial No. 10/781,432 (K-C 18,874)  
Response to Office Action dated 04/05/2005  
Page 7

### **Remarks**

The claims have been amended to provide further clarification and provide appropriate punctuation. Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Generally stated, the present invention provides a distinctive article, which in particular configurations, may be an absorbent, feminine care article. The article comprises a deformation-control member which can include a medial section, and a selected stiffened region. The stiffened region can include a first array of individual, stiffening elements, and at least a second array of individual, stiffening elements. Each of the first and second arrays of stiffening elements can have a convergently arranged nose-end, and a relatively divergently arranged tail-end. In a particular feature, the first and second arrays of stiffening elements can be counter-positioned. In other features, each nose-end can be positioned toward a central region of the article, and each tail-end can be positioned toward an end region of the article. In still other features, each nose-end can be positioned toward an end region of the article, and each tail-end can be positioned toward a central region of the article. A further feature can include first and second arrays of stiffening elements that are configured to substantially avoid intersecting in the medial section of the deformation-control member. In still another feature, the deformation-control member can be an appointed shaping layer in an absorbent body. Other desired configurations of the invention can include a liquid-permeable cover, a baffle, and an absorbent body which is operatively sandwiched between the cover and baffle. Further aspects are set forth in the specification and claims.

By incorporating its various aspects and features, the article of the invention can, for example, provide a distinctive configuration of embossments or other stiffening elements that can better produce a desired deformation of the article and can better maintain a desired article shape. In particular arrangements, the article of the invention can provide an article-deformation which can better conform to the contours of the wearer's body. The article of the invention can also provide an improved pattern of embossments or other surface contours that can better provide an improved direction and regulation of liquid flow, and can help move liquid away from a cover member of the article. The article can be less susceptible to premature leakage, and can provide greater protection and confidence to the wearer. Particular features can provide improved aesthetics and visual cues or indicators of absorbency and leakage protection.

Claims 1, 9-11, 14-15, 17 and 19 have been alleged to be actionable under 35 U.S.C. § 102 based on U.S. Patent Application Publication Number US 2002/0040212 by Drevik (Drevik). This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

Serial No. 10/781,432 (K-C 18,874)  
Response to Office Action dated 04/05/2005  
Page 8

As described by Drevik, an absorbent article includes an elongate absorbent core having an upper surface and a lower surface, a pair of opposed longitudinal edge portions terminating in longitudinal edges and a pair of opposed transverse edges, the core having a first end portion, a second end portion and a central portion located between the end portions; a liquid permeable topsheet extending over the upper surface; a liquid barrier backsheet covering the lower surface of the absorbent core; barrier strips, each of the barrier strips covering a respective longitudinal edge portion and forming a liquid-retaining pocket along a respective longitudinal edge portion; and a longitudinal elastic member arranged along each of the barrier strips that are placed along each longitudinal edge portion of the absorbent core, the elastic members extending in at least the central portion of the absorbent core; the elastic members each include a plurality of spacers arranged at a distance from each other along a length of the elastic members to create fluid conducting channels.

The Examiner's assertions regarding claims 1, 9-11, 14-15, 17 and 19 are allegedly based on FIG. 1, ¶ [0029] lines 1-6, and ¶ [0032] lines 4-9. It is submitted that Drevik does not support the Examiner's assertions.

When viewing FIG. 1 of Drevik, a person of ordinary skill would discern beads 54 or short cylinders 56 that are aligned along the relatively longer, longitudinal-direction of the article, and are arranged to extend crosswise, all parallel to one another along the relatively shorter, width-direction of the article. The person of ordinary skill, however, would not discern a deformation-control member having a selected stiffened region, in the configurations called for by Applicants' presented claims. The person of ordinary skill would not discern a first array of stiffening elements having a first, convergently arranged nose-end, and a first, relatively divergently arranged tail-end. Neither would the person of ordinary skill discern a second array of stiffening elements having a second, convergently arranged nose-end, and a second, relatively divergently arranged tail-end. Additionally, the person of ordinary skill would not discern an arrangement in which the second array of stiffening elements have a counter-positioned configuration relative to the first array of stiffening elements.

Moreover, the disclosures of Drevik in its ¶ [0029] and ¶ [0032] fail to cure the deficiencies of Drevik's FIG. 1. As taught by Drevik at ¶ [0029]:

.... The beads 54 serve as a spacing means 60 (as illustrated in FIG. 6 and 7) between the barrier strips 46, 48 and the top sheet 36 and will create fluid conducting channels 62 (as illustrated in FIG. 7) between the barrier strips 46, 48 and the top sheet 36 in a direction from the center of the sanitary napkin 10 to the longitudinal sides of the sanitary napkin 10. The channels 62 are especially advantageous when the barrier strips 46, 48 are pressed against the top sheet 36 and the upper surface 14 of the absorbent core 12, by an external

Serial No. 10/781,432 (K-C 18,874)  
Response to Office Action dated 04/05/2005  
Page 9

force, e.g., tight trousers, or if the user is sitting down. The channels 62 then allow migrating body fluids to flow under the barrier strips 46, 48 even when the barrier strips 46, 48 are pressed against the top sheet 36, thereby increasing the flow through the absorbent core 12 rather than through the barrier strips 46, 48 or over the barrier strips 46, 48. ... (emphasis added)

As taught by Drevik at ¶ [0032]:

In a second embodiment of the invention, and as illustrated in FIGS. 3, 6 and 7, the elastic members 50, 52 are broader than in the first embodiment and they are in the form of a string of short cylinders 56. The short cylinders 56 serve as a spacing means 60 (as illustrated in FIG. 6 and 7) between the barrier strips 46, 48 and the top sheet 36, and will create channels 62 between the barrier strips 46, 48 and the top sheet 36 in a direction from the center of the sanitary napkin 10 to the longitudinal sides of the sanitary napkin 10, and serves the same purpose as in the first embodiment. Here, short cylinder means a cylinder having a length less than the cylinder diameter. The cylinders may alternatively have other cross-sectional shapes, such as an oval shape. The cylinders may also have different diameters and/or different cross sections in the same string of cylinders. (emphasis added)

It is apparent that the further consideration of ¶ [0029] and ¶ [0032] of Drevik would still fail to disclose or suggest an article which includes a first array of stiffening elements having a first, convergently arranged nose-end, and a first, relatively divergently arranged tail-end. Neither would the person of ordinary skill discern a second array of stiffening elements having a second, convergently arranged nose-end, and a second, relatively divergently arranged tail-end. Additionally, the person of ordinary skill would not discern an arrangement in which the second array of stiffening elements have a counter-positioned configuration relative to the first array of stiffening elements. It is, therefore, readily apparent that a proper consideration of FIG. 1, ¶ [0029], and ¶ [0032] of Drevik would not disclose or suggest the configurations called for by Applicants' currently presented claims.

A further consideration of FIG. 4 of Drevik shows long cylinders 58 that are aligned along the article, and extend crosswise, all parallel to one another along the relatively shorter, width-direction of the article. As a result, the additional consideration of the disclosure of FIG. 4 would still fail to disclose or suggest the invention called for by Applicants' currently presented claims.

Accordingly, Drevik does not disclose or suggest a configuration having a deformation control member with a stiffened region which includes a first array of individual, stiffening elements, and at least a second array of individual, stiffening elements, wherein each of the first and second arrays of stiffening elements have a convergently arranged nose-end, and a relatively divergently arranged tail-end, as called for by Applicants' presented claims. Neither does Drevik teach a configuration having a stiffened region wherein the first and second arrays of stiffening elements are counter-positioned, as called for by the claimed invention. Additionally, Drevik fails to disclose

Serial No. 10/781,432 (K-C 18,874)  
Response to Office Action dated 04/05/2005  
Page 10

or suggest a configuration wherein each nose-end is positioned toward a central region of the article, and each tail-end is positioned toward an end region of the article; or wherein each nose-end is positioned toward an end region of the article, and each tail-end is positioned toward a central region of the article, as called for by particular claims of Applicants. Drevik also fails to teach a configuration wherein the stiffening elements have the recited alignment angles, or wherein the deformation-control member is an appointed shaping layer in an absorbent body, as called for by other particular claims. As a result, when compared to Applicants' claimed invention, the structures taught by Drevik would be less able to provide desired regions of controlled flexibility and bending, and would be less able to provide desired levels of fit and comfort.

It is, therefore, readily apparent that Drevik fails to teach Applicants' claimed invention. Accordingly, reconsideration and withdrawal of the Examiner's actions under 35 U.S.C. § 102 are respectfully requested.

Claims 2-8, 18 and 20-23 have been alleged to be actionable under 35 U.S.C. § 103(a) based on Drevik. This rejection is respectfully ~~traversed~~ to the extent that it may apply to the currently presented claims.

It is submitted that the reasons previously set forth in the remarks pertaining to 35 U.S.C. § 102 are equally pertinent to the patentability of claims 2-8, 18 and 20-23, and are repeated in response to the Examiner's action under 35 U.S.C. § 103(a). Moreover, it is submitted that Drevik provides no suggestion or motivation to make the changes and modifications needed to synthesize the invention called for by Applicants' presented claims.

It is well established that the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious, unless the prior art suggested the desirability of the modification. It is also well established that it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. Where the cited references do not teach how to make the particular combinations needed to arrive at the invention called for by Applicants' claims, the claimed invention cannot be deemed "obvious". Additionally, it is well established that a prior art reference must be evaluated as an entirety and that the prior art must be evaluated as a whole. Where neither any reference considered in its entirety, nor the prior art as a whole, suggests the combination claimed, the invention is non-obvious.

Serial No. 10/781,432 (K-C 18,874)  
Response to Office Action dated 04/05/2005  
Page 11

It is respectfully submitted that the particular combinations of features that are called for by the claimed invention would **not** be apparent or "obvious" to the skilled person. Only by using impermissible "hindsight" and by employing Applicants' disclosure as an instruction guide for picking and choosing disparate elements from a universe of possible features would the skilled person be led to the modifications needed to synthesize the configurations of the claimed invention. In the absence of Applicants' disclosure, however, the required changes would be unapparent and unobvious to the skilled person.

It is, therefore, readily apparent that the Examiner has **not** presented a *prima facie* case of obvious under 35 U.S.C. § 103. Accordingly, reconsideration and withdrawal of the actions under 35 U.S.C. § 103 are respectfully requested.

Claims 12-13, 16 and 24-27 have been alleged to be actionable under 35 U.S.C. § 103(a) based on Drevik in view of U.S. Patent 6,222,092 by Hansen et al. (Hansen). This rejection is respectfully **traversed** to the extent that it may apply to the currently presented claims.

Hansen discloses a disposable absorbent garment which has barrier elements on its inner liner to form barriers to the flow of urine across the liner surface. In one embodiment, the barrier elements are loops formed by rows of slits through the liner material, such that the slits form rows of strips. Central portions of the strips are forced out of the plane of the liner to form wide based loops or humps on the inner surface of the garment when the garment is in place about the body of a wearer. These elevated loops form rows of raised obstructions that act as urine flow interference barriers. In other embodiments, the loops are preformed on the surface of the liner layer, or are formed from interdigitating strips. The loops are preferably provided in a target area of the garment where urine impinges the liner surface. Garments intended to be worn by males may have the loops distributed primarily throughout a front crotch region, to interfere with the substantially tangential movement of urine across the liner layer. The garment diminishes leakage of urine out of the waistband of the garment, and inhibits migration of liquid waste within the diaper. Apertures formed under the loops provide an opening through which liquid waste enters the interior of the garment.

It is submitted that a person of ordinary skill would not make the combinations urged by the Examiner. Drevik teaches that the beads serve as a spacing means 60 between the barrier strips 46, 48 and the top sheet 36. The beads create fluid conducting channels 62, and the channels 62 then allow migrating body fluids to flow under the barrier strips 46, 48.

Contrary to the teachings of Drevik, Hansen teaches the incorporation of barrier elements on its inner liner to form barriers to the flow of urine across the liner surface. In one embodiment, the

Serial No. 10/781,432 (K-C 18,874)  
Response to Office Action dated 04/05/2005  
Page 12

barrier elements are loops formed by rows of slits through the liner material. These elevated loops form rows of raised obstructions that act as urine flow interference barriers. Openings formed under the loops allow a direct entry of liquid waste to the interior of the garment. As a result, the structures taught by Hansen are directed to purposes and functions that are opposite and contradictory to the purposes and functions desired by Drevik. It is, therefore, readily apparent that a person of ordinary skill would have no motivation to make the combinations urged by the Examiner. To the contrary, the teachings of Hansen would lead the person of ordinary skill away from the arrangements urged by the Examiner.

In the absence of Applicants' disclosure, the synthesis alleged by the Examiner would **not** be suggested by a proper combination of Drevik and Hansen. The configurations of the claimed invention would clearly **not** be apparent or "obvious" to the ordinary-skilled person. Only by using impermissible "hindsight" and by employing Applicants' disclosure as an instruction guide for picking and choosing disparate elements from a universe of possible features would the skilled person be led to the modifications needed to synthesize the configurations of the claimed invention. In the absence of Applicants' disclosure, however, the required changes would be unapparent and unobvious to the ordinary-skilled person.

It is, therefore, readily apparent that none of Drevik, Hansen or any proper combination thereof would teach Applicants' claimed invention. Accordingly, reconsideration and withdrawal of the actions under 35 U.S.C. § 103 are respectfully requested.

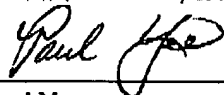
For the reasons stated above, it is respectfully submitted that all of the currently presented claims are in form for allowance. Accordingly, reconsideration and withdrawal of the rejections, and allowance of the currently presented claims are earnestly solicited.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-2435.

Respectfully submitted,

TERESA M. ZANDER, ET AL.

By:   
\_\_\_\_\_  
Paul Yee  
Registration No.: 29,460  
Attorney for Applicants

Serial No. 10/781,432 (K-C 18,874)  
Response to Office Action dated 04/05/2005  
Page 13

**CERTIFICATE OF FACSIMILE**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on June 2, 2005.

Typed or printed name of person signing this certificate:

Judith M. Anderson

Signature: *Judith M. Anderson*

Kimberly-Clark Worldwide, Inc.  
Neenah, Wisconsin 54956  
(920) 721-2000